

HOUSE JOURNAL

SEVENTY-EIGHTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

FORTY-FIRST DAY — FRIDAY, MARCH 28, 2003

The house met at 11:20 a.m. and was called to order by the speaker pro tempore.

The roll of the house was called and a quorum was announced present (Record 136).

Present — Mr. Speaker; Allen; Alonzo; Bailey; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Canales; Capelo; Casteel; Castro; Chavez; Chisum; Christian; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Ellis; Farabee; Farrar; Flores; Flynn; Gallego; Garza; Gattis; Geren; Giddings; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Lewis; Luna; Mabry; Madden; Marchant; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Mercer; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega; Oliveira; Olivo; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Stick; Swinford; Talton; Taylor; Telford; Thompson; Truitt; Turner; Uresti; Van Arsdale; Villarreal; West; Wilson; Wise; Wohlgemuth; Wolens; Wong; Woolley; Zedler.

Absent, Excused — Gutierrez.

LEAVES OF ABSENCE GRANTED

On motion of Representative Reyna and by unanimous consent, all members who were granted leaves of absence on the previous legislative day were granted leaves for this legislative day.

RULES SUSPENDED

Representative Reyna moved to suspend all necessary rules in order to take up and consider at this time, on third reading and final passage, the bills on the local, consent, and resolutions calendar which were considered on the previous legislative day.

The motion prevailed without objection.

MOTION FOR ONE RECORD VOTE

On motion of Representative Reyna and by unanimous consent, the house agreed to use the first record vote taken for all those bills on the local, consent, and resolutions calendar that require a record vote on third reading and final passage, with the understanding that a member may record an individual vote on any bill with the journal clerk.

**LOCAL, CONSENT, AND RESOLUTIONS CALENDAR
THIRD READING**

The following bills which were considered on second reading on the previous legislative day on the local, consent, and resolutions calendar were laid before the house, read third time, and passed by the following record vote (members registering votes and the results of the vote are shown following bill number).

(Record 137): 146 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Bailey; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Canales; Capelo; Casteel; Castro; Chavez; Chisum; Christian; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Ellis; Farabee; Farrar; Flores; Flynn; Gallego; Garza; Gattis; Geren; Giddings; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Lewis; Luna; Mabry; Madden; Marchant; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Mercer; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega; Oliveira; Olivo; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Stick; Swinford; Talton; Taylor; Telford; Thompson; Truitt; Uresti; Van Arsdale; Villarreal; West; Wilson; Wise; Wohlgemuth; Wolens; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker; Turner(C).

Absent, Excused — Gutierrez.

HB 211

HB 402

HB 629

HB 630

HB 808

HB 884

SB 469

HB 940

HB 1014

HB 1055

HB 1065

HB 1078

HB 1120

HB 1138

HB 1150

SB 519

HB 1328

The following bills which were considered on second reading on the previous legislative day on the local, consent, and resolutions calendar were laid before the house, read third time, and passed by a voice vote (members registering votes are shown following bill number):

HB 146

HB 148

HB 178

HB 195

HB 325

HB 381

HB 403

HB 470

HB 501

HB 522

HB 535

HB 581

HB 821

HB 839

HB 858

HB 873

HB 883

HB 946

HB 988

HB 1066

HB 1153

HB 1472

HB 1822

SB 330

(Speaker in the chair)

MOTION TO CONFORM CAPTIONS

Representative Reyna moved to conform the captions of the senate bills taken up in lieu of the house bills to the house bills' captions.

The motion prevailed without objection.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 20).

**BILLS AND JOINT RESOLUTIONS ON FIRST READING
AND REFERRAL TO COMMITTEES
RESOLUTIONS REFERRED TO COMMITTEES
CORRECTIONS IN REFERRAL**

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Resolutions were at this time laid before the house and referred to committees. Pursuant to Rule 1, Section 4 of the House Rules, the chair at this time corrected the referral of measures to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

REGULAR ORDER OF BUSINESS SUSPENDED

On motion of Representative Nixon and by unanimous consent, **HB 4** was taken up at this time.

**MAJOR STATE CALENDAR
HOUSE BILLS
THIRD READING**

The following bills were laid before the house and read third time:

HB 4 ON THIRD READING
(by Nixon, Allen, Capelo, Woolley, R. Cook, et al.)

HB 4, A bill to be entitled An Act relating to reform of certain procedures and remedies in civil actions.

A record vote was requested.

HB 4 was passed by (Record 138): 94 Yeas, 46 Nays, 2 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Capelo; Casteel; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Ellis; Farabee; Flores; Flynn; Gattis; Geren; Goodman; Goolsby; Griggs;

Grusendorf; Haggerty; Hamilton; Hamric; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; Marchant; McCall; McReynolds; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Phillips; Pitts; Reyna; Riddle; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Stick; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wohlgemuth; Wong; Woolley; Zedler.

Nays — Alonzo; Bailey; Burnam; Canales; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Farrar; Gallego; Garza; Giddings; Guillen; Hochberg; Hodge; Laney; Lewis; Luna; Mabry; Martinez Fischer; McClendon; Menendez; Moreno, J.; Moreno, P.; Naishat; Noriega; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Rodriguez; Solis; Telford; Thompson; Turner; Uresti; Villarreal; Wilson.

Present, not voting — Mr. Speaker(C); Wolens.

Absent, Excused — Gutierrez.

Absent — Christian; Hardcastle; Isett; Oliveira; Ritter; Wise.

STATEMENTS OF VOTE

When Record No. 138 was taken, I was in the house but away from my desk. I would have voted yes.

Christian

I was shown voting no on Record No. 138. I intended to vote yes.

Edwards

When Record No. 138 was taken, I was temporarily out of the house chamber. I would have voted yes.

Isett

When Record No. 138 was taken, I was in the house but away from my desk. I would have voted yes.

Ritter

HB 4 - REASON FOR VOTE

Regretfully, we cast our vote against this special interest bill that was originally intended to help Texas doctors. We have stated from the beginning of this debate that we support meaningful malpractice insurance reform that will lower insurance rates for Texas doctors and increase patient's access to health care. Unfortunately, the vast majority of this bill addresses the excessive wants of big business at the expense of small businessmen and women and everyday Texans. The bill reaches too far and prevents too many Texans from receiving their day in court. Our vote is not a vote against doctors, rather it is a vote for our constituents. Last week, we supported immediate relief for doctors through amendments that would roll back and freeze malpractice insurance rates. We also supported amendments that would have helped doctors by providing prompt pay. However, the majority did not see fit to adopt those amendments. Despite our

efforts to help doctors, we must represent the interests of all our constituents. We hold the rights of everyday Texans sacred, and we will continue to fight any special interest that tries to eliminate those rights.

Alonzo, Bailey, Burnam, Castro, Coleman, Y. Davis, Deshotel, Dukes, Dunnam, Dutton, Eiland, Farrar, Gallego, Garza, Giddings, Guillen, Hochberg, Hodge, Laney, Lewis, Luna, Mabry, Martinez Fischer, McClendon, Menendez, J. Moreno, P. Moreno, Naishtat, Noriega, Olivo, Peña, Pickett, Puente, Quintanilla, Raymond, Rodriguez, Solis, Telford, Thompson, Turner, Uresti, Villarreal.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business in the district:

Wise on motion of Dunnam.

CONSTITUTIONAL AMENDMENTS CALENDAR HOUSE JOINT RESOLUTIONS SECOND READING

The following resolutions were laid before the house and read second time:

CSHJR 12 ON SECOND READING

(by Chisum, Swinford, Farabee, Ellis, Flores, et al.)

CSHJR 12, A joint resolution proposing a constitutional amendment authorizing the legislature to exempt certain travel trailers from ad valorem taxation.

Amendment No. 1

Representative Chisum offered the following amendment to **CSHJR 12**:

On page 2, strike Section 4, lines 12-17 and insert in its place the following:

SECTION 4. This proposed constitutional amendment shall be submitted to the voters at an election to be held September 13, 2003. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment to authorize the legislature to exempt from ad valorem taxation travel trailers not held or used for the production of income."

Amendment No. 1 was withdrawn.

Representative Chisum moved to postpone consideration of **CSHJR 12** until 10 a.m. Monday, March 31.

The motion prevailed without objection.

HCR 157 - ADOPTED (by Branch)

Representative Branch moved to suspend all necessary rules to take up and consider at this time **HCR 157**.

The motion prevailed without objection.

The following resolution was laid before the house:

HCR 157, Honoring the Leadership Consultant Council at Southern Methodist University.

HCR 157 was adopted without objection.

CSHJR 3 ON SECOND READING
(by Nixon, et al.)

CSHJR 3, A joint resolution proposing a constitutional amendment concerning civil lawsuits against doctors and health care providers, and other actions, authorizing the legislature to determine limitations on non-economic damages.

PARLIAMENTARY INQUIRY

REPRESENTATIVE DUNNAM: Mr. Speaker.

SPEAKER CRADDICK: For what purpose?

DUNNAM: Parliamentary inquiry.

MR. SPEAKER: State your inquiry.

DUNNAM: If the daily house calendar is dated for a specific date, does that calendar have to lay out for 36 hours before 10 a.m. on the day that calendar is dated for those bills to be eligible for consideration?

MR. SPEAKER: The bills become eligible 36 hours after the calendar is time-stamped and put in your boxes.

DUNNAM: Parliamentary inquiry.

MR. SPEAKER: State your inquiry.

DUNNAM: The deadlines for actions under house and senate rules which is a chart which we were provided with this year, and which is a chart we are provided with every year, states that, for example, on the 120th day of the session by 10 p.m. the last house daily calendar with house bills and HJRs must be printed and distributed by 36 hour layout.

MR. SPEAKER: That's correct

DUNNAM: 10 p.m. on the 120th day is 36 hours before the 122nd day, which is the last day for consideration on second reading of house bills and hjs. Is that correct?

MR. SPEAKER: It sounds correct, but we don't have that in front of us.

DUNNAM: This is prepared by leg. council, is that correct?

MR. SPEAKER: That's correct.

DUNNAM: It doesn't say that a bill that is placed on the calendar at 11:00 p.m. can be heard after 11:00 a.m. on the 122nd day. It says, and the rules say, that a daily house calendar must lay out 36 hours before that calendar is considered, and the practice of the house is that 10 a.m. even though that bill may not come up until later that day. Has not that been the house practice, and isn't that why we have the 10 p.m. deadline on the 120th day for consideration of house bills and

10 p.m. on the 132 day for the last consideration of senate bills—it's not a 36 hour layout from when the house hit the floor, it's a 36 hour layout from when the time session begins that day.

MR. SPEAKER: The layout period is to the calendar, not to the bills.

DUNNAM: And so, as I stated before, if a daily house calendar is dated for a specific date, that calendar must lay out 36 hours before 10 a.m. on the day that calendar is dated for the bills on that calendar to be eligible for consideration, the 36 hours is as to the calendar?

MR. SPEAKER: The bills that will become eligible on the calendar become eligible 36 hours after it's time-stamped.

CSHJR 3 - POINT OF ORDER

Representative Dunnam raised a point of order against further consideration of **CSHJR 3** under Rule 6, Section 16 of the House Rules on the grounds that the daily calendar on which **CSHJR 3** was set does not meet the 36 hour layout requirement.

(The speaker deferred the point of order disposition, see page 1054)

MEMORANDUM BY REPRESENTATIVE DUNNAM

The joint resolution was first placed on a calendar that was not properly printed and distributed as required by the rules; the Daily House Calendar on which the joint resolution was first placed was provided to the members less than 24 hours before the time at which the calendar was eligible, in violation of the rules.

Any calendar must be printed and distributed to the members at least 36 hours before the initial time at which the calendar would be eligible for consideration by the house. H. Rule 16(a) (2003). The time at which the calendar is placed in the mailboxes must be stamped on the original of the calendar. H. Rule 16(d). A calendar may not be considered if the rules were disregarded in its preparation. H. Rule 16 (e).

HJR 3 was set by the Committee on Calendars on the Constitutional Amendments Calendar for Wednesday, March 26, 2003. The house was set to convene at 10:00 a.m. on that date. 78 H. J. Reg. 831 (2003). The calendar was placed in members' mailboxes March 25, 2003, at 11:03 a.m., as indicated by the time-stamp on the calendar itself. Exh. A. The Daily House Calendar for Wednesday, March 26, 2003, was not eligible for consideration because the rules of the house were not complied with during its preparation by the Committee on Calendars. The Calendars Committee is responsible for printing and distributing the calendars as part of its complete jurisdiction over all matters concerning the calendars system. H. Rule 3, § 4(3).

Since there was not a Daily House Calendar for Wednesday, March 26, 2003, there are no bills or resolutions that could have appeared on that calendar and thus be eligible for carry-over to supplemental calendar. See H. Rule 6, § 16(a). The rule supports this reading. The last paragraph of Rule 6, Sec. 16(a) states that "the bills and resolutions from a daily house calendar that will be

eligible for consideration may be incorporated" in the proper order on the supplemental calendar. A supplemental calendar may not cure a defect in the initial Daily House Calendar, since it may only include those matters properly set in the first place.

For the foregoing reasons, the point of order should be sustained.

SUPPLEMENTAL DOCUMENTATION SUBMITTED BY REPRESENTATIVE DUNNUM

The following documentation from the Guide to Texas Legislative Information prepared by the Texas Legislative Council:

House calendars. After a bill or resolution has been reported favorably by a standing committee and the committee report has been printed, the chief clerk forwards the measure to the appropriate calendars committee for placement on a calendar. The house rules provide for four types of calendars:

(1) the Daily House Calendar, which contains a list of new bills and resolutions scheduled by the Committee on Calendars for consideration by the house and which must be distributed to the members 36 hours before the house convenes during regular sessions and 24 hours before the house convenes during special sessions;

(2) the Supplemental House Calendar (prepared by the Committee on Calendars), which must be distributed two hours before the house convenes and which may contain: (a) measures passed to third reading on the previous day; (b) measures on the Daily House Calendar for a previous day that were not reached for consideration; (c) measures on the Daily House Calendar for the current day; (d) postponed business from a previous day; and (e) notice to call from the table a measure laid on the table subject to call on a previous day;

(3) the Local, Consent, and Resolutions Calendar, which must be distributed to the members 48 hours before the house convenes and which contains a list of local or noncontroversial bills scheduled by the Committee on Local and Consent Calendars for consideration by the house; and

(4) the Congratulatory and Memorial Calendar, which must be distributed 24 hours before the house convenes and which contains a list of congratulatory and memorial resolutions and motions scheduled by the Committee on Rules and Resolutions for consideration by the house.

The Supplemental House Calendar, because it includes the measures listed on the Daily House Calendar, is the primary agenda followed by the house during its deliberations. The Local, Consent, and Resolutions Calendar and the Congratulatory and Memorial Calendar are special calendars that are prepared approximately once a week during the last half of a regular session. In addition to the four calendars listed above, the house rules provide for seven categories that may be used to group bills and resolutions on those calendars. Those categories, listed in order of priority, are the: (1) emergency calendar; (2) major state calendar; (3) constitutional amendments calendar; (4) general state calendar; (5) local, consent, and resolution calendar; (6) resolutions calendar; and (7) congratulatory and memorial resolutions calendar. Within each category, senate bills and resolutions are required to be listed on the calendars separately from

house bills and resolutions, and consideration of senate bills and resolutions on senate bill days (Wednesdays and Thursdays) has priority in the order specified by house rule.

Except during the latter part of the regular session, when calendars become especially lengthy, the house normally considers all measures listed on its calendars before adjourning or recessing for the day.

CSHJR 3 - POINT OF ORDER

Representative Thompson raised a point of order against further consideration of **CSHJR 3** under Rule 4, Section 33 of the House Rules on the grounds that the fiscal note for **CSHJR 3** was not accurate.

The speaker overruled the point of order, speaking as follows:

Ms. Thompson raises a point of order under Rule 4, Section 33 of the House Rules on the grounds that the information contained in the fiscal note to **HJR 3** was not accurate.

Rule 4, Section 33 requires the chair of a standing committee to request a fiscal note from the Legislative Budget Board if the chair believes that a bill or joint resolution authorizes or requires the expenditure or diversion of state funds. It is this chair's view that the chairman of a committee is entitled to rely upon the information received from the Legislative Budget Board as accurate and complete.

The chair believes that the rules have been complied with respect to requesting the fiscal note and will not sustain a point of order based on the accuracy of the information contained in the fiscal note.

Accordingly, the point of order is respectfully overruled.

PARLIAMENTARY INQUIRY

REPRESENTATIVE DUNNAM: Mr. Speaker.

SPEAKER CRADDICK: For what purpose?

DUNNAM: Parliamentary inquiry.

MR. SPEAKER: State your inquiry.

DUNNAM: So that means that the chair has no obligation of a committee to assure that a fiscal note is accurate?

MR. SPEAKER: The rule requires that the chair submit the information to the Legislative Budget Board and to rely on the Legislature Budget Board's information.

DUNNAM: Parliamentary inquiry.

MR. SPEAKER: State your inquiry.

DUNNAM: Is there any process by which additional information can be provided to the LLB or the Legislative Budget Board or to where if someone knew there was an error in a fiscal note that that could be brought to the attention of the general public in the official records of the house.

MR. SPEAKER: As a general rule, that information is brought to the committee during the committee process.

DUNNAM: So, if a fiscal note is in error and a member of this chamber knows that and believes that the official record should be corrected in the interest of public knowledge is there any way that can be done under the rules?

MR. SPEAKER: The rules do not provide for a correction of information that is in dispute.

DUNNAM: And if the information is not in dispute, if it has come to someone's attention indisputably that the fiscal note is in error, is there a process by which a member could correct a fiscal note so that the public would know the accurate information?

MR. SPEAKER: That information is generally done in the committee process between the give and take in testimony. That is why we have a committee process in the house.

DUNNAM: Thank you sir.

Amendment No. 1

Representative Nixon offered the following amendment to **CSHJR 3**:

Amend **CSHJR 3** on page 2, lines 20 and 21, by striking "the members present in" and substituting "all the members elected to".

PARLIAMENTARY INQUIRY

REPRESENTATIVE DUNNAM: Mr. Speaker

SPEAKER CRADDICK: For what purpose?

DUNNAM: Parliamentary inquiry.

SPEAKER: State your inquiry.

DUNNAM: Is it, in order for an amendment to be laid before the house when a point of order is pending before the chair?

MR. SPEAKER: It is in order because the chair has deferred its ruling on the point of order so the debate can continue.

DUNNAM: And I appreciate that, Mr. Speaker, but this is a new motion before the house, as opposed to just the debate continuing on the bill. That is why I asked specifically is it in order for the house to consider another motion when a point of order is pending. It is the chair's prerogative to defer the point of order while the research is being done and allow the business of the house to continue.

DUNNAM: Mr. Speaker. Parliamentary inquiry.

MR. SPEAKER : State your inquiry, Mr. Dunnam.

DUNNAM: Would that mean the speaker and his prerogative could call a vote on the bill while a point of order is pending? Because that would seem to be the same logic if the speaker has discretion to proceed with any motion while a point of order is pending. That it would seem that the speaker would have discretion to

call a vote on the bill or move to table the bill or to take any other motion on the bill while a point of order is pending. And therefore, could I get a response to the parliamentary inquiry?

MR. SPEAKER: Restate your inquiry, Mr. Dunnam.

DUNNAM: The chair, the speaker, said that in the chair's discretion any matters could proceed pending ruling on a point of order, and I asked would it be in the chair's discretion to call a vote on an amendment, consider a motion to table, take a vote on the bill or any other matter if a point of order is pending?

MR. SPEAKER: Mr. Dunnam could you come up front please?

DUNNAM: Yes.

Amendment No. 1 was withdrawn.

STATEMENT BY SPEAKER CRADDICK

Mr. Dunnam has requested clarification about the scope of the chair's discretion, under general parliamentary practice, to entertain motions and rule on particular matters while a point of order is pending. The chair did not intend to imply any decision about which additional motions were in order pending the decision on the point of order.

HJR 3 - POINT OF ORDER DISPOSITION

The speaker overruled the point of order, speaking as follows:

Mr. Dunnam raises a point of order against further consideration of **HJR 3**, under Rule 6, Section 16, in that the first daily calendar on which the bill appeared was not laid out in members' boxes 36 hours before the house convened that day.

The time stamp on the daily calendar for that day shows that the calendar was placed in members' boxes at 11:03 a.m. on Tuesday, March 25. Under the consistent practice of the house under this rule, the calendar for that day became eligible for consideration 36 hours later, at 11:03 p.m. on Wednesday, March 26. Today is Friday, March 28, more than 24 hours after that calendar became eligible, and **HJR 3** appears on the supplemental calendar in accordance with the rules.

Mr. Dunnam directed the chair's attention, during parliamentary inquiry, to the printed May calendar showing the effect of the end of session rules, which are established by Rule 8, Section 13. Under those rules, the calendar reflects that the daily calendar on the 120th day must be printed and distributed by 10 p.m. The rules do not establish that time; rather it is a recommended deadline assuming the likely 10 a.m. convening on the 122nd day.

Accordingly, the point of order is respectfully overruled.

REMARKS ORDERED PRINTED

Representative Dunnam moved to print remarks between Speaker Craddick and Representative Dunnam.

The motion prevailed without objection.

Amendment No. 2

Representative Nixon offered the following amendment to **CSHJR 3**:

Amend **CSHJR 3** on page 2, lines 20 and 21, by striking "the members present in" and substituting "all the members elected to".

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Turner offered the following amendment to **CSHJR 3**:

Amend **CSHJR 3** as follows:

On page 2, line 20, strike "three-fifths" and substitute "two-thirds"

(Gutierrez now present)

Representative Nixon moved to table Amendment No. 3.

A record vote was requested.

The motion to table prevailed by (Record 139): 84 Yeas, 60 Nays, 3 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Christian; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Flores; Flynn; Gattis; Geren; Goodman; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Heflin; Hegar; Hilderbran; Hill; Hope; Howard; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; Marchant; McCall; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Phillips; Pitts; Reyna; Riddle; Rose; Seaman; Smith, T.; Smith, W.; Solomons; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wohlgemuth; Wong; Woolley; Zedler.

Nays — Alonzo; Bailey; Burnam; Canales; Capelo; Castro; Chavez; Coleman; Cook, R.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Eiland; Elkins; Ellis; Farabee; Farrar; Gallego; Garza; Giddings; Guillen; Hochberg; Hodge; Homer; Hopson; Hughes; Jones, J.; Laney; Lewis; Luna; Mabry; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, J.; Moreno, P.; Naishat; Noriega; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Smithee; Solis; Stick; Telford; Thompson; Turner; Uresti; Villarreal; Wilson; Wolens.

Present, not voting — Mr. Speaker(C); Gutierrez; Hartnett.

Absent, Excused — Wise.

Absent — Edwards.

Amendment No. 4

Representative Mabry offered the following amendment to **CSHJR 3**:

Amend **CSHJR 3** as follows:

On page 2, line 5 through page 2, line 18, strike subsections (c) and (d).

Representative Nixon moved to table Amendment No. 4.

A record vote was requested.

The motion to table prevailed by (Record 140): 92 Yeas, 54 Nays, 1 Present, not voting.

Yeas — Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Capelo; Casteel; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Ellis; Farabee; Flynn; Gattis; Geren; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; Marchant; McCall; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Phillips; Pitts; Reyna; Riddle; Ritter; Rose; Seaman; Smith, W.; Smith; Solomons; Stick; Swinford; Talton; Taylor; Truitt; Van Arsdale; Villarreal; West; Wohlgemuth; Wong; Woolley; Zedler.

Nays — Alonzo; Bailey; Burnam; Canales; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Farrar; Flores; Gallego; Garza; Giddings; Goodman; Guillen; Gutierrez; Hochberg; Hodge; Hughes; Jones, J.; Laney; Lewis; Luna; Mabry; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Rodriguez; Smith, T.; Solis; Telford; Thompson; Turner; Uresti; Wilson; Wolens.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Wise.

Absent — Allen.

STATEMENT OF VOTE

When Record No. 140 was taken, I was temporarily out of the house chamber. I would have voted yes.

Allen

Amendment No. 5

Representative Luna offered the following amendment to **CSHJR 3**:

Amend **CSHJR 3** to Article III, Texas Constitution, Section 2 as follows:

Amend **CSHJR 3**, by amending Section 2, line 24-25 by striking the words "September 13, 2003" and substituting "November 4, 2003".

Representative Nixon moved to table Amendment No. 5.

A record vote was requested.

The motion to table prevailed by (Record 141): 79 Yeas, 67 Nays, 1 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Christian; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Flynn; Gattis; Geren; Goolsby; Griggs; Grusendorf; Hamilton; Hamric; Hardcastle; Harper-Brown; Heflin; Hegar; Hill; Hope; Howard; Hunter; Hupp; Isett; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; Marchant; McCall; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Phillips; Pitts; Reyna; Riddle; Seaman; Smith, W.; Solomons; Stick; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wohlgenuth; Wong; Woolley; Zedler.

Nays — Alonzo; Bailey; Burnam; Canales; Capelo; Castro; Chavez; Coleman; Cook, R.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Ellis; Farabee; Farrar; Flores; Gallego; Garza; Giddings; Goodman; Guillen; Gutierrez; Haggerty; Hartnett; Hilderbran; Hochberg; Hodge; Homer; Hopson; Hughes; Jones, D.; Jones, J.; Laney; Lewis; Luna; Mabry; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega; Oliveira; Olivo; Peña; Pickett; Puente; Raymond; Ritter; Rodriguez; Rose; Smith, T.; Smithee; Solis; Telford; Thompson; Turner; Uresti; Villarreal; Wilson; Wolens.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Wise.

Absent — Quintanilla.

Amendment No. 6

Representative Eiland offered the following amendment to **CSHJR 3**:

Amend **CSHJR 3** by striking from page 2, line 26 through page 3, line 2, and substituting:

the proposition in two separate parts. The first part shall provide: "The constitutional amendment authorizing the legislature to set limitations on non-economic damages that may be awarded to injured parties in civil lawsuits against doctors and health care providers." The second part shall provide: "The constitutional amendment authorizing the legislature to set limitations on non-economic damages that may be awarded to injured parties in civil lawsuits against defendants who are not doctors and health care providers."

The part of the proposed constitutional amendment that sets limitations on non-economic damages that may be awarded to injured parties in civil lawsuits against doctors and health care providers takes effect only if the majority of the voters approve the first part of the ballot proposition. The part of the proposed constitutional amendment that sets limitations on non-economic damages that may be awarded to injured parties in civil lawsuits against defendants who are not doctors and health care providers takes effect only if the majority of the voters approve the second part of the ballot proposition. The entire proposed constitutional amendment takes effect only if the majority of the voters approve both parts of the ballot proposition.

Representative Nixon moved to table Amendment No. 6.

A record vote was requested.

The motion to table prevailed by (Record 142): 80 Yeas, 66 Nays, 1 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Capelo; Casteel; Chisum; Christian; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Flynn; Gattis; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Heflin; Hegar; Hill; Hope; Howard; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; Marchant; McCall; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Phillips; Pitts; Reyna; Riddle; Seaman; Smith, W.; Solomons; Stick; Swinford; Taylor; Truitt; Van Arsdale; West; Wohlgemuth; Wong; Woolley; Zedler.

Nays — Alonzo; Bailey; Burnam; Canales; Castro; Chavez; Coleman; Cook, R.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Ellis; Farabee; Farrar; Flores; Gallego; Garza; Geren; Giddings; Goodman; Guillen; Gutierrez; Hartnett; Hochberg; Hodge; Homer; Hopson; Hughes; Jones, J.; Laney; Lewis; Luna; Mabry; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smith, T.; Smithee; Solis; Talton; Telford; Thompson; Turner; Uresti; Villarreal; Wilson; Wolens.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Wise.

Absent — Hilderbran.

STATEMENT OF VOTE

When Record No. 142 was taken, my vote failed to register. I would have voted yes.

Hilderbran

REMARKS BY REPRESENTATIVE DUTTON

The speaker recognized Representative Dutton who spoke on **CSHJR 3** as follows:

Thank you, Mr. Speaker. I am rising to speak in opposition to this constitutional amendment. As most of you know, I am a trial lawyer. I try cases to juries and sometimes I win and sometimes I lose. And sometimes somebody might say I have a better shot with juries than I do with this group. But that's understandable too. But I...the only time I've had a person come to me and say that I thought the jury gave me too much was when I was doing criminal cases. I've never had someone who, in a civil case, tell me that and in fact people generally said in civil cases, "Well I thought we would get more than that." And I've told them that, "Look, you know, if you really want to get more than that, let

me show you what somebody looks like that got more than that and you tell me if you want to look like that or not." And after I show them the pictures, they say, "No, I think I understand, Mr. Dutton." But the point here is that juries are the people that we've relied on to make these decisions.

Let me test your intellectual honesty. How many people in here would come here to the house of representatives to change the way juries respond if this were about a criminal matter? If this were about criminal courts? And whether or not we ought to restrict juries in criminal matters. In fact, in almost every statute I know of, in most cases we have minimum sentences that are imposed by this legislature. That's not what we're doing here. I mean, what we're doing here is we're suggesting that somehow juries don't have the wherewithal to make these decisions. Well, as a trial lawyer, I trust the jury system. It works. Sometimes, as I've mentioned, sometimes I've won and sometimes I've lost. But I've never been in the position where I've decided that I don't want to get my case to the jury. And yet, at the same time, Mr. Nixon may be right at least in one respect-and that is we can come back tomorrow or another day, even without this HJR. And presumably decide to impose caps on almost any cause of action that we can think of or we can create. But there's that other entity of government that I also trust out there, which we call the judiciary. And the courts. And they are the ones who have basically said, "The legislature, when you overstep your bounds, we're over there to tell you we got you." And then sometimes we've come back into this body and what we say is we don't like the rulings of the court. Well, today what we're saying is we don't like the rulings of the court and we don't like the fact that juries have also made this decision.

Somebody got mad, because, I think they...there was a statement made, that some how or another this was about money. This is about the best democracy that somebody can buy. And I'm not sure if that's the case or not, and so we all have our own reasons for doing whatever it is that we do here. And this particular measure, it's probably no different. We're probably deciding...some people seem to think this is about attacking lawyers, and I've heard that over and over again. But this is not about lawyers, this is about people, this is about the people in your respective districts who either serve as jurors, but you don't need a juror until you get hurt. And so it's about people in your district who get injured by someone else's negligence. This HJR would permit us to impose caps to just about anything that happens to people in this state. And effectively what that means is that Texas, then, is going to embark on a course that no other state has engaged in at the moment. What it also means is that non-Texans have greater benefits and greater rights than even Texans.

I didn't vote for **HB 4** because I think it is the wrong thing to do as well. The constitutional amendment is no less, members. As you heard the debate, we need 100 votes on this constitutional amendment. But you won't need 100 votes to put caps on damage awards that people may potentially get. I think that's wrong. I think it exposes this for what it really is. This is not about trying to help people as Mr. Nixon, I think, has suggested. But somehow or another today it only needs 51 votes in order to impose caps. If that were really the case, again, why would we do this? And again, I would ask you to test your own intellectual honesty.

Because if you do, what you will come away with is, "Well, wait a minute, this doesn't make sense." It doesn't make sense because: if I don't trust the jury system in the civil side, why do I continue to trust it on the criminal side? A jury on the criminal side comes here and there are people who will come up here and debate me all day. But everybody in TDC is guilty because a jury said they were; and they got the right sentence because a jury gave them that sentence. And if they gave them the death penalty that must have been the right thing to do because, by golly, a jury said it. But then when it comes to the civil side, and a person gets injured, we say, "No, wait, hold, stop, we really don't want the jury making these decisions." That's the test, members, that's the intellectual honesty test. Because if you can do it on one side, you'll do it on the other side.

And the same way as my dad used to say, when there was a discussion about who's got the biggest part, and he'd say, "Well, who cut it down the middle?" And he'd let that person, who ever cut it down the middle, then the other person gets to choose. But that's not what is happening in this, what's happening is, that people who cut it down the middle are also choosing. And those are the people who I think I'm afraid, it bothers me, that we're starting down a course, and you've heard it over and over again, it sort of underlies a lot of the things that's been going on here. That when we start to do things based on something other than the fact that each member here, who represents their district, has an outside influence that causes us to come to this house chamber. And not to listen, or to engage in certain courses of conduct, that I think lead us away from having, not just an open government, but causes us to do things to people just because they happen to be among the have-nots. We all have to start to raise the question of our, not only just this chamber, but ourselves, as well. When you look in the mirror in the morning, most of us are going to leave here and go home in a minute, and we'll all go to church on Sunday, and that's probably a good thing. But, you know, if you go to church and you don't leave any better than when you came, you might as well have stayed home and do like one of my friends says-he watches it on television, and he puts his collection on top of the TV, and they never come and get it.

And my point, members, is that, look, we don't have to do this to people, because there are a few business people who don't like what juries are saying. I trust the jury system, you should too. They happen to be the same people that voted for you and me.

REMARKS BY REPRESENTATIVE DUKES

The speaker recognized Representative Dukes who spoke on **CSHJR 3** as follows:

Mr. Speaker, members, this is my fifth term in the Texas House of Representatives and only the third time I have risen to speak against a bill. I am compelled to do so today, because I believe a great injustice is being done to the people of Texas. I feel a great injustice is being done to the children of Texas. I feel a great injustice is being done to each and every one of us here.

Many years ago, my great, great, grandfather served in the Texas House of Representatives. And I once read a story about there being a bill on the floor of this body where he was the only one in opposition to that bill. And the story stated that at that time Senator Shannon, who was formerly a representative, Senator Shannon spoke on that measure, and when that vote was taken, that those votes turned, by what he said, not by what anyone did. I do not purport to you today that I will be able to deliver a speech that will change any of your minds and certainly not within the grand shoes of my great grandfather. But the forefathers of our country, when they established this nation, they established three branches of government. And they were quite specific in separating those powers. When they established the legislative body they fully intended for us to discuss policy, and to establish policy that would be for the betterment of all people, for life, freedom, and happiness. When they established the executive branch they were very limited in what they provided at times to that executive branch. To ensure that the control of policy written would be in the legislative body. And that the executive branch would administer the government and the offices and the agencies. And they also established the judiciary branch to ensure that the policies that were developed by this legislative body would be judicious and just.

We debate legislation for five and a half months each odd numbered year under a dome that has a statue of whom we have called the "goddess of justice." I think that the goddess of justice's head is bowed today, because we are establishing a true injustice. And Martin Luther King said, "Injustice anywhere is an injustice everywhere." We have clearly opened the door to everywhere on that injustice. I've spent the last few months serving on the Appropriations Committee and the Subcommittee on Health and Human Services. And I thank the speaker for giving me that opportunity, because I have seen many of the changes that are being proposed. Some of them may change in the next day or so, but what I have seen, is that because of the budgetary restrictions that we have, there are programs that are being cut. Prevention and safety programs, programs that the State of Texas had in place so that we can ensure the safety of our citizens. So we could ensure that they would have a healthy environment. With those budget cuts, we won't have inspectors who will go out and check the landfills so we won't know, we won't know if there will be things that will dip into the drinking water of our people. We won't have people who will be able to go out and inspect the meat plants, so we won't know—we won't know, if we were the ones that allowed for some industry to have tainted meat. We won't have people going out and checking the dairy facilities, so we won't know—we won't know if that baby is drinking some milk that they shouldn't have. We're doing that because of budgetary cuts, we're saying that the economic cost is too high, and in this bill, we're saying that the economic damages are too high so we are placing caps and we're saying to these same industries for which we will no longer go out and review, we will no longer go out and inspect, "You don't need to worry about the liability, you don't need to worry about the damage, we won't check you on one side, and we won't check you on the other."

I see a Texas and this is the Texas that I see. I see a Texas where a new mother, very happy with her newborn child in it's car seat is driving down the road and there is an accident, and that child's seat was not properly manufactured. And when the impact occurs, that child comes through the window. That child didn't have job, we just said that child has no value. I see a young father, who is very happy about his first home and he's trying to get his yard in order and he's out with his new riding mower and he puts it in park and he steps off to pull his child's toy out the way and all of the sudden, the drive shaft disengages. The drive shaft that disengaged on so many other lawn mowers. And that father is no longer around to pick up any more toys, to care for that yard, to ensure that that family has someone to provide for them. I see a Texas where a young child, who has lung cancer, has been in treatment and the family has been praying that the surgery that that child is to have is one that will provide that child a much longer life. And the wrong lung is removed during that surgery, and that child doesn't survive, and we just said that child has no economic value, we just said that that family has no pain and suffering.

I stand here today because I am sad about what we are doing to Texas. But I also stand here today, because I have thought about this long and hard over the last few days. And I have been consistent in voting no, and I know I don't need to explain to anyone in my district why I have voted no. Because the only one that I needed to explain to, will at some point in time come to me, and when he comes to me and sit up from that pine box, six feet under, I will ask him, "Lord, have you capped my damages?" There's only one person I'm answering to today and I know which way I am going to vote, and I ask you to think about Texas and to think about that judiciary branch and to think about the goddess of justice and let her hold her head high.

REMARKS BY REPRESENTATIVE KING

The speaker recognized Representative King who spoke on **CSHJR 3** as follows:

Thank you Mr. Speaker, members. I wanted to comment on some of the concerns that we have heard the last couple of weeks. One that has been said repeatedly is that this amendment will violate the principle, or the doctrine of the separation of powers, that we have a judicial, and a legislative, and an executive branch. That it somehow will intrude into the role of the judiciary. But I just want to make sure everybody understands that is not right. The judiciary's role is to apply and to interpret law. The legislative branch, this house, we create law, or in this case create a proposal for law to take to the voters. That is what we have done with this amendment. We have done a proper function for the legislative branch and we have not in any way intruded into the judiciary. It has also been said several times that we are somehow violating the purity of the jury system. That we don't trust juries because we are setting a cap on a certain part of damages that are available in certain types of cases. But that's not correct either because, or at least this isn't something that we have not routinely done. We give guidance to juries throughout our statutes. In the penal code, we set minimum and we set maximum sentences. Juries can't go above a certain amount and they

can't go below a certain amount. In the fines, we set the same thing. We set an amount they can fine, the maximum and then we set the minimum. Giving juries limits in what they do. We have done that in civil procedures to. We've had for many years a cap on damages for wrongful death. Initially we passed it at \$500,000, now that's been indexed and grown over the years some. But we have also done the same thing with punitive damages. Many of you sat here in not too distant sessions when we looked at how do you assess punitive damages. We've limited the terms and opportunities under which a jury can give exemplary or give punitive damages. And we have limited the amounts of those damages, we've done that under statutes that we've passed, such as RCLA and the DDPA and in some cases, prohibited, many cases, prohibited juries from awarding punitive damages at all. We have traditionally given juries limits in what they can do. Set minimums and set maximums and given them guidance. And that is what this HJR does. Something that is proper and consistent with all our past practices. Third, I have had it said that if we put this limit on non economic damages, that plaintiffs will never be able to be made whole. Now what this means is that if we limit the amount of money that a plaintiff can receive, that they are not going to be made whole again. But this complete idea of being made whole is a judicial fiction. It says that there is an amount of money that you can give to someone and when it reaches that level then they've been made whole again. You know, there is no amount of money, \$250,000 or \$250 million, there is no amount of money that is going to completely replace a child, there is no amount of money ever sufficient to replace a spouse. What we are doing here, what we are doing here in putting a \$250,000 proposed cap isn't saying we don't want people to be compensated, what were saying is this, we are making a policy decision, and we are saying that people can never be made completely whole. Their wrongs, their injuries, they can never be paid enough to cover that. We're saying all of their economic damages should be paid in full. 100 percent. But those non economic damages, as a policy decision, we're putting a limit on. And were doing that, not as an effort to be mean, and not as an effort to protect defendants, many of which aren't big corporations, many of which are people like you and me who are in a car wreck or involved in some other kind of situation. What we're saying that we are doing this in an effort to lower malpractice insurance, so that we can lower the cost of doing business for health care providers, so that hopefully we can lower the cost of health insurance and of health provisions, so that it will be cheaper and more accessible to Texans. That's what this is about, it is a policy decision. Coming up with a number that says this is what we believe will work to provide better health care opportunities for Texas. We have also heard it said that this is our house. And that we should be making the decisions. To an extent that is completely true. But in reality it's not our house, this is the people's house. And our job here is to try to make good decisions for Texas. Some of these decisions are so big, and some of them are so difficult, that our forefathers said that those are constitutional issues and that before we can change those, we have to go back to the voters. And that is what a constitutional amendment is. That's when we are coming to the people and saying this is a tremendously serious decision. And we're coming back to you

and saying you tell us Texas what you want us to do. We're not a complete democracy, we are a republic, and we elect people to come in and we come down and we're are elected to make decisions. But this is one of those that is at a level that we turn back to the voters. And I am not afraid to turn this back to the voters if they vote it down then so be it, that was their decision. But this is an occasion, this is a decision that I don't think is really right for us to make. And I am very, very comfortable with turning it to the people of Texas. Giving us all between now and September the chance to sell our side of this, to convince them to vote for it or against it, if you are against it. But I am comfortable and I hope you will be with telling Texans that we trust them to make a decision, just as our forefathers established this whole process to be. And I would just ask that you would release this to the people and let them give us guidance and I would just ask that you would vote for this amendment, for this HJR.

REMARKS BY REPRESENTATIVE DUNNAM

The speaker recognized representative Dunnam who spoke on **CSHJR 3** as follows:

It's a little frustrating. I do believe if we took this board down, and voted, this thing wouldn't have a prayer. If we took this vote board down, and took away the influences that are on this chamber right now, this proposition would not have a prayer. I know that, I have talked with too many of you not to. Instead, we're setting up probably the greatest jury trial there is ever going to be in Texas. Because the money is going to start flowing pretty quick to persuade the very few people that show up in September on this issue. But let me tell you a few things, not from me but from other people, I think we still learn from history. And there was a group that sat in this chamber, about a year before I was born. And that group sat at a time of national crisis, national emergency, when people were not safe in their homes, when people were fearful of attack from their enemies, and foreign countries. This body, this body passed some pretty responsive things for homeland security in the fall of 1962 during the Cuban missile crisis. They said that the legislature, in order to insure continuity of the state and local government operations, in periods of emergency resulting from disasters caused by an emergency attack, when such a period of emergency and immediate threat of enemy attack exists, the legislature may suspend procedures rules imposed by the Texas Constitution, and on and on and on to protect our citizens. But they also put in here, in spite all the pages of the things they were doing to try to provide security, which meant more enforced government, they said though, provided, however, that Article I of the Constitution of Texas, known as the Bill of Rights, shall not in any manner be affected, amended, impaired, suspended, repealed, or suspended hereby. They protected the Texas Bill of Rights. And don't kid yourselves. That is what this is about. It is about more than a few lawsuits. And I feel very strongly and agree with what was said about compensating people. But this is knocking stones out of the Texas Bill of Rights and we should not do that, we should not do that. Those members stood down Mr. Krushchev and his missiles. And that is pretty good pressure. That is pretty tough pressure. And they said, despite all that, we will not repeal or

infringe upon the right open courts and a trial by jury in the State of Texas. That's a lot of pressure, and I am proud of those folks. I am proud of those folks. Let me just read a few other things that other people have said. "The wisdom of our sages, and the blood of our heroes have been devoted to the attainment of trial by jury. It should be the creed of our political faith. I consider trial by jury as the only anchor ever imagined by man, by which a government can be held to the principles of it's constitution." Thomas Jefferson. Our declaration, our U.S. Declaration of Independence cites King George for giving his assents to the acts of parliament of pretended legislation depriving us in cases of the benefits of trial by jury. That's one of the reasons we left England, and we're not going to take a stone out of that wall today. It's more than about the victims and the lawyers. After today, you will never be able to take this vote back. You can stand proud and say whether or not you voted to take a chink out of the Texas Bill of Rights. Listen to this: "The friends and adversaries of the plan of the constitutional convention, if they agree on nothing else, concur at least in the value they set upon the trial by jury. Or if there is any difference between them it consists of this, the former regard it as a valuable safeguard to liberty and the latter represent it as the very palladium of a free government." Alexander Hamilton. "If jury power is not law, it is better than law, it ought to be law and will always be law where ever justice prevails." Benjamin Franklin. Great men, there are very few things that set us apart from every one else in the world. If we pull out a flag and it's burned on the capitol steps, we will have an outrage in this chamber. We should be equally outraged by tearing a page out of the Texas Bill of Rights. Don't take lightly what we're doing. Isn't it ironic, a few miles from here they are filming a new movie on the Alamo. And we're here being asked to erase part of what they fought for. Please don't do that.

REMARKS BY REPRESENTATIVE WOLENS

The speaker recognized Representative Wolens who spoke on **CSHJR 3** as follows:

Mr. Speaker and members, I know it's late in the day and we want to get back home so I'll try not to be too long. But, what we're doing is somewhat profound and I want to reiterate the gravity of what we're doing here. Jim Dunnam is right. The Article I in the Constitution is the Bill of Rights. And it's here. It's Article I and it's called the Bill of Rights. And the open courts doctrine is in Article I and it is in the Bill of Rights. And it says this: All courts shall be open and every person for an injury done him in his land, goods, person or reputation shall have remedy by due course of law. And when you talk about your reputation it's not a very hard economic damage. It's your reputation. And if you'll look at the constitutional amendment you'll see that it goes on. It's not in Article I but it goes further back into the constitution in a section where Jim was reading to you. It adds it into Article III about three amendments down from the article that was passed during the Bay of Pigs incident and it specifically says that Jim Dunnam just said to us that even in the state of war don't go messing around with the Texas Bill of Rights. And the reason we know this does amend the Bill of Rights and Article I, even though it's in Article III, I'm sorry even

though it's in Article VI, I think; it's in article III, is if you look at page 2, line 5 and it says "not withstanding any other provision of the Constitution." "Not withstanding any other provision" and what that says is not withstanding the Bill of Rights. We're gonna do this. Now, Phil King correctly told you that we, the Texas Legislature, give direction to juries and it's true. And Phil King told you that we have given the direction to juries in criminal cases. Phil, didn't you say, some minimum and maximum punishment for the criminal, didn't you tell us that? And didn't you just tell us in deceptive trade practices we'll limit how much a jury can give, didn't you tell us that? And didn't you tell us that in a RCLA case, didn't you tell us that? Or in punitive damages we, the Texas Legislature, will set some limits for the jury, didn't you tell us that? But isn't it also true that we never put any of that in the Texas Constitution? Is that true? It's true. We never put it in the Constitution and that's what makes this so unusual. And we have voted to limit deceptive trade practices three times and I don't remember what the statutory regulation is in a RCLA case, that's an environmental kind of case. And I do know we have voted here on limiting what a jury can do on minimum and maximum, that you can put somebody away in jail. But we never put it here. I mean it doesn't show up here. I can't find it in the Texas Constitution. It's not here. Because we've never done this before. This is novel, what we're doing. It's very unusual. And I think one reason we never put it in the constitution is because our statues are flexible. They are flexible. They reflect what our moods are, and they reflect our passions on any one day, and they reflect our tribulations during an election cycle. The Constitution is different. Our Constitution talks about very bold principles. Generally, it talks about bold principles that are sacrosanct usually, that we want to be very thoughtful when we get ready to touch the Constitution and they are not subject to political whims and they are not subject to passing passions. Now, I'm not saying that we are involved in a passing passion on the malpractice issue. But members, this goes beyond the medical malpractice. This goes way beyond the medical malpractice. I mean this will affect a property damage case where there's a claim for nuisance. If your insurance company gives you the wrong credit rating and you lose your business there are noneconomic damages that you can sue for if the insurance company messes you up. Or if someone is found trespassing in your property, it's a function of nuisance which would be a noneconomic damage. I mean, what are we doing sticking this stuff in the Texas Constitution? I don't know why we're putting it in the Constitution. We can do it here. And if we want to come back next session and change it, we can change it without taking it before the voters on a Constitutional amendment. And here we are, we're dealing with the open courts doctrine. I suggest to you we're dealing with something very, very important. I believe and you believe, too, in right and wrong. That is what we come down here to do. We say what's right and what's wrong. And we're gonna have a chance to debate in a week or two what's right and wrong on homebuilders. If a homebuilder can build your home for you and then take out the implied warranty of habitability, they build your home, they take your money, and then we're going to change the law maybe in a

week or two here in this legislature to say that it doesn't necessarily have to be habitable, we're going to put limits on that. Alright, we'll vote on that. But we're not going to put it in the Texas Constitution.

You know the deal with WorldCom has blown me away where WorldCom, through their management says, they may have made a mistake on \$3.8 billion and their shareholders and they come back and say, not only \$3.8, it was \$9 billion. And that conduct was wrong. That's wrong. And it's wrong with Adelphia Communications, what those guys did. And it's wrong what Sandy Weil at Citigroup did with Salomon Smith Barney where he tells his stockbroker there to go out and sell this stuff even though you don't believe it's good. The stock of AT&T because I'm Sandy Weil and I sit on the AT&T board of directors and the chairman of AT&T sits on the Citigroup/Citicorp board of directors and we're buddies and therefore Jack Grubman and you go out and sell lousy stock. And who buys the stock? Your pension, your pension is in that. And teachers' pension is in that. Public employee's pension is in that. Our constituents' pension got stuck in that stuff and in the Enron on the off-balance sheets and on Arthur Andersen shredding the documents. And while I know most of this is subject to FCC regulation and federal regulation we're talking about the same stuff and its conduct. It is the conduct of people and how you go about separating right and wrong and who does the separating and I believe you separating with the jury. You separate it with people who we say are good enough, these folks are good enough to make a decision about guilt and innocence of a criminal. And we will say, we will say that a jury is good enough to make a decision about who's going to be put to death in the death chair with the death penalty. But why is it appropriate for us to trust a jury to take away a person's life and not say it's appropriate for a jury to place a dollar value on innocent victim's life? Why are they good enough to vote for us but they're not good enough to make a decision on human life? Why is that, why is that?

Now, Phil King, you just told us that you'll never make a person whole, and you are absolutely right. And you just told us that we're going to make a policy decision to put a cap on noneconomic damages because that's the right thing to do for medical malpractice. No you go tell that to Linda MacDougal, I think that's what her name was. In February of '02 or February of '00, I think it was—this was the lady who got diagnosed by her doctors with breast cancer. They said you need to have a double mastectomy, they removed both breasts and came back two months later and said, "You know we made a mistake. We got the wrong identity on the pathology and we should have told this to another patient, and we just made a mistake and shouldn't have removed both of your breasts." Do you think Linda MacDougal thinks that \$250,000, that she feels good that she's solved a policy problem in the State of Texas?

Texas Legislature, we have decided in a statute called **HB 4** that we're going to set \$250,000. We're going to put this in the constitution now? Joe Nixon said that there is a lot of legal thought that believes that because of this quid pro quo that **HB 4** works anyway. I don't know what the answer is, we will find out.

But Phil King let me tell you, God forbid that is my wife, God forbid that is my mother, God forbid that it is any of you or any of your spouses. God forbid that that should happen.

In our system of law, we have a right to file a lawsuit if someone has done something wrong. And in our system of law, if a person is wronged, they are entitled to a right of trial by jury. And for us to dismiss it, just to dismiss it out of hand and say so casually, or cavalierly, we're going to put it in the constitution to make it so hard to come back and change it with our 90 people. For what are we doing this? We don't have to do this. The Bill of Rights should not be touched over these economic interests that we are fighting about today. And I'm almost through, I am almost through. You know, the constitutional amendment is very, very broad in Section C and Section D. C, as Joe and I discussed, refers to any claim in tort contract and other theory of law. Thank you Mr. Speaker and Mr. Nixon.

REMARKS BY REPRESENTATIVE COLEMAN

The speaker recognized Representative Coleman who spoke on **CSHJR 3** as follows:

Thank you Mr. Speaker. When we started this session, my concern was about the budget. I've been doing that for a long time and anguishing over what we do for or to the people of the State of Texas through those dollars. And I've spent a lot of time working on health and human services issues because I thought that they were very important. And as Mr. Nixon has said, I'm not a lawyer. I just have a degree in political science, and that doesn't get you very far these days. But what I have found out through this debate, is that the courts do matter, the lawyers do matter, because they protect people when they have been harmed, and they go and help get a remedy for them. And what I've learned working on health and human service is that people with mental illness have problems. And I learned that, hey, you know, the insurance didn't cover them. Many families thought the insurance was adequate, until they found out there were limits. But they didn't find that out until their daughter got sick at age 20 in college. And then they went to get some help, and guess what? The insurance policy didn't cover it. These weren't people who were thinking about whether their daughter would have a mental illness or not. What they were thinking about is, everything's going to be OK. And guess what? They paid for that insurance. And then they went to get some help for the daughter, and guess what—no help. Now, nobody in this room thinks that anything is going to happen to them today. But I can tell you that accidents do happen, negligence happens, people do things on purpose, and then people do things because they didn't really mean it, but then they covered it up. And then when you go, to find a way to get a remedy for that harm, that's when people are going to find out how broad this constitutional amendment goes. Because when those caps come on, and when those caps come on those damages, we don't learn a lot of these things until we need them. And then we find out its been shut off. Now, if you'd asked me a week ago, what the most important bill of this session was, I would tell you it's **HB 1** by Talmadge Heflin, because that's my orientation. I will tell you that I'm a businessperson I

believe in markets. I believe in those things, and I will tell you that this bill hurts businesses. But the reason I keep saying that is because I've learned so much about how people are affected by the civil justice system. Whether they are business owners, whether they are somebody's mom or grandma, whether it's a little kid, or whether it's Dell, because if something happens to Mr. Dell, he may need some help too. But this bill will change that. So, I'm asking you to vote no on this constitutional amendment because I think it goes too far. And that's from reading the bill. And if this constitutional amendment happens to pass, which I hope it does not, that somebody with wisdom goes and looks at those provisions that are harmful and removes them from this bill, so that we can make sure that we are being honest with the people of the State of Texas. Because that's what this is about—being honest with the people of the State of Texas. I respect Joe Nixon. He's done a good job of laying out his bill. He's done a good job of handling this because this has been a long debate. We agree on a lot of things—we disagree on this. But we both come here with the same intention, which is to do what's best for the people of our districts and this whole state. I disagree with him on this. This is not best for the people of this state. It is not best for the people of our districts, and it's certainly not good public policy. Please vote no on **HJR 3**.

REMARKS BY REPRESENTATIVE RAYMOND

The speaker recognized Representative Raymond who spoke on **CSHJR 3** as follows:

Thank you Mr. Speaker, members. I'm not so presumptuous to think that my words are going to switch a whole lot of votes. And I wasn't going to talk—you know, I'm a politician like the rest of you, and I give plenty of talks back home. All of us give plenty of speeches, so when we get to Austin, I don't get up here too often. I just told the Speaker, "I'm like you, Mr. Speaker. I just want to be speaker some day. I don't like to get up and give a lot of speeches. But I had to get up, because as I thought about it, there's nobody else from Benevides, Texas, where I grew up. Who's gonna get a chance to get up and give a talk on this bill before we vote on it? And I'm really talking to just a handful of members who sit in this chamber today, who truly haven't decided how they're going to vote. Jim Dunnam's right, there's not 100 of us in here who think this is a good bill. We know that. And there are a few of us, who have decided for different reasons that we're probably going to vote for it, but we know it's not a good bill. And it's to those few people that I direct my comments. And I don't know that it'll switch any votes, but I hope that it does.

And let me say this, all of us have heroes, people that we look up to, historical or personal, family. And I'm gonna tell you about some of the people and heroes and heroes that shaped me. One of them was a guy named Sam Rayburn. He grew up in Bonnen, not too far from Honey Grove. Sam Rayburn was as populist as you get, the most populist politician maybe we ever had in the history of the State of Texas. He served as speaker, and if Sam Rayburn were here today, I think, "What would Sam Rayburn do, and what would he say?" And that's a little presumptuous of me, but I've read a lot about Sam Rayburn.

And one of the things I know is that Sam Rayburn would never sit in a room in this capitol or off grounds somewhere, with lobbyists from major business groups, major chemical corporations, insurance companies, or pharmaceutical firms. Sam Rayburn would never, ever have done that. Sam Rayburn died—he didn't have whole lot of money when he died—but he had integrity that is unmatched in the history of this state amongst politicians. I think Sam Rayburn would vote no today.

And even though I'm Mexican American and I grew up in Benevides, Texas, a town of 1900 people, one of my heroes is Martin Luther King—Dr. Martin Luther King. Because if it wasn't for Dr. Martin Luther King, not only would a lot of African Americans in this country not be able to vote and live where they want to live, and have jobs and go to school, there'd be a lot of Mexican Americans that wouldn't be able to either, a lot of women who wouldn't be able to either. And for those friends of mine in this chamber who have said to me, "This is so tough, this is tough. Boy, the pressure is on," I thought to myself, what would Dr. King do if he were here today? He'd think this was a cakewalk, compared to the things he went through. This would be an easy no vote for Dr. King. I don't have any doubt about that.

And another one of my heroes is Dr. Hector P. Garcia from Corpus Christi. He was very nice to me. I met him when I was 22 years old. I knew who he was long before that. And until he died, he was one of my mentors and continues to be. Dr. Hector P. Garcia became famous, because after going to fight for this country in World War II, and coming back to be a doctor—a doctor who died very poor, I might add, because he did a lot of work helping and not charging them. But Dr. Hector became famous because when another veteran, a congressional medal of honor winner who happened to be Mexican American, died, they wouldn't bury him in Three Rivers, Texas. And Dr. Hector challenged that. And because of that, that soldier was eventually buried at Arlington National Cemetery. And I'm proud that I was the first Mexican American to represent Three Rivers in the Texas Legislature. And I think about what Hector P. Garcia—Dr. Hector P. Garcia—would do today, and I know what he'd do. He'd vote no, that's what he'd do.

Cesar Chavez, one of our champions, and I know what Cesar Chavez would do. And finally, Nicefero Peña, my grandfather who grew up in San Isidro and died in San Isidro, Starr County, who I was very close to. And if he were here today, and I asked him, I wonder what he'd tell me. I think I know what he'd tell me. Because he didn't speak English, he'd tell me, "*Hijo, había un tiempo cuando nuestras manos estaban amarradas. Ahora que tenemos las manos libres, tenemos que usar las manos para ayudar nuestra gente. Porque la gente con poder tienen bastante influencia.*" That's what he'd say. That's what he would say.

And so whatever pressure anybody feels, those few of you who haven't really decided what you're going to do, I hope you'll think about Nicefero Peña, and Cesar Chavez, and Dr. Hector P. Garcia, and Dr. Martin Luther King, and Sam Rayburn, and know that whatever happens today, Tom Craddick's still going to be your friend, he's still going to be our speaker. He's a great guy. And

everybody else in here is still going to be your friend. I mean, there's going to be some guys in the gallery who won't be happy if you vote no, I know that. But think about the importance of this vote. This is my fifth session, and this is the most important vote I have ever cast. And I wanted to come in here and help doctors. But as I said, there are not 100 members that think this is a good bill. And if you vote right, there is a tomorrow, there will be a tomorrow for everybody in this state, not just a few. Thank you.

REMARKS BY REPRESENTATIVE NIXON

The speaker recognized Representative Nixon who spoke on **CSHJR 3** as follows:

Mr. Speaker, members, you've heard some very true and impassioned words. Sometimes people take positions because they have a misunderstanding of what is actually written down. **HJR 3** actually makes it more difficult for the legislature to interfere in trial by jury. One of the things I've tried to discuss with Mr. Dutton is a 1975 decision of the Texas Supreme Court where it was reasoned that if the legislature can increase awards by statute, it can decrease awards by statute. If the legislature can increase awards, it can decrease awards. It can do it on a simple majority vote, today, today. In a 1988 opinion referred to as *Lucas*, the Texas Supreme Court disagreed with the 1997 Supreme Court and said the legislature can reduce awards, but they must give something back. There must be a quid pro quo. But even the 1988 court in *Lucas* said that we have the right to reduce awards—it is something that you own today. **HJR 3** does not limit your right to a trial by jury. It makes it more difficult for this body to interfere with a right to a trial by jury. If both of those courts, the state and the *Lucas* courts, said that we have the right to reduce awards with a majority vote of both bodies, so when we raise it, Scott, we make it more difficult. Let's look at paragraph A. There's no cap in paragraph A, there's no cap in paragraph B, there's no cap in paragraph C, there's no cap in paragraph D, and in paragraph E, it says a legislative exercise in authority under Subsection C of this section requires a three-fifths vote of the members in each house. What that means is that we have taken both the *Lucas* and the state cases and the decisions of those courts and said we are going to make it more difficult for us to impose caps. Members, Mr. Raymond, it is going to be more difficult if you vote for this HJR, for this body to raise those caps. I would invite you to put aside your emotion and to exercise reason. I would invite you to read the words of the constitutional amendment. We are not debating **HB 4** again today. We are debating the constitutional amendment. This constitutional amendment makes it more difficult for us to interfere with the common law rights of receiving awards. If it makes it more difficult, it would be harder. If this passes—and I urge you to vote for it—if it passes, it's going to be more difficult to interfere with the right of trial by jury. We're going to need 90 votes. What's a quorum in here today? 100. What's a majority of 100? 51 if we, today, only need 51 votes to interfere with the right of trial by jury, today. Under both of the supreme court decisions that we are trying to address, both of them—both of them say that you need 51 votes. The

constitutional amendment that I have proposed makes it 90. It makes it harder for this body to interfere with the right to trial by jury. Members, put aside the emotion, and vote with your reason. Vote aye.

A record vote was requested.

The vote of the house was taken on the adoption of **CSHJR 3** and the vote was announced yeas 102, nays 45.

A verification of the vote was requested and was granted.

The roll of those voting yea was again called and the verified vote resulted, as follows (Record 143): 102 Yeas, 45 Nays, 0 Present, not voting.

Yeas — Mr. Speaker(C); Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Capelo; Casteel; Chavez; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Ellis; Farabee; Flores; Flynn; Garza; Gattis; Geren; Giddings; Goodman; Goolsby; Griggs; Grusendorf; Gutierrez; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; Marchant; McCall; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Phillips; Pitts; Reyna; Riddle; Ritter; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Stick; Swinford; Talton; Taylor; Truitt; Van Arsdale; Villarreal; West; Wohlgemuth; Wong; Woolley; Zedler.

Nays — Alonzo; Bailey; Burnam; Canales; Castro; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Eiland; Farrar; Gallego; Guillen; Hochberg; Hodge; Jones, J.; Laney; Lewis; Luna; Mabry; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, J.; Moreno, P.; Naishtat; Noriega; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Rodriguez; Solis; Telford; Thompson; Turner; Uresti; Wilson; Wolens.

Absent, Excused — Wise.

Absent — Edwards.

By unanimous consent, the house dispensed with the verification of those voting nay.

The speaker stated that **CSHJR 3**, as amended, was adopted by the above vote.

REASON FOR VOTE

People across the state need access to health care. Doctors across our state need protection from frivolous lawsuits. All of us need protection from poorly-run or unscrupulous insurance companies. However, **HJR 3** does not guarantee a remedy for any of these ills. Further, it comes at a great price—a direct assault on the Texas Bill of Rights, a cornerstone of our Constitution and our history.

We are disappointed that the majority refused to accept the amendments offered by Representatives Turner, Mabry, Luna, and Eiland. These amendments would have vastly improved this legislation and ensured support from a broad spectrum of the house membership. Had any three of these four amendments had been accepted, we would have voted for **HJR 3**.

Gallego
Hochberg

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Criminal Jurisprudence, upon final adjournment today, Desk 59, for a formal meeting, to consider **HB 103** and **HB 1592**.

Licensing and Administrative Procedures, upon final adjournment today, Desk 99, for a formal meeting, to consider **HB 1056**, **HB 1401**, and **HB 1508**.

Corrections, upon final adjournment today, Desk 1, for a formal meeting, to consider **HB 1856**.

Appropriations, Subcommittee on Health and Human Services, upon final adjournment today, E1.022, for a formal meeting, to consider MHMR, TDH, DHS, DPRS, and HHSC.

Environmental Regulation, 8:30 a.m. Monday, March 31, E2.010, for a formal meeting, to consider **HB 1567**.

Appropriations, 1:00 p.m. Sunday, March 30, E1.030, for a public hearing.

FIVE DAY POSTING RULE SUSPENDED

Representative Heflin moved to suspend the five day posting rule to allow the Committee on Appropriations to consider '04-'05 appropriations.

The motion prevailed without objection.

REMARKS ORDERED PRINTED

Representative Mabry moved to print closing remarks on **CSHJR 3**.

The motion prevailed without objection.

ADJOURNMENT

Representative Raymond moved that the house adjourn until 10 a.m. Monday, March 31 in memory of Lucien Flournoy of Alice.

The motion prevailed without objection.

The house accordingly, at 5:14 p.m., adjourned until 10 a.m. Monday, March 31.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HB 3008 (By Capelo), Relating to the licensing and regulation of surgical assistants.

To Public Health.

HB 3009 (By Capelo), Relating to certain advance directives for medical treatment and medical treatment decisions.

To Public Health.

HB 3010 (By Capelo), Relating to information provided to parents of newborn children relating to immunizations.

To Public Health.

HB 3011 (By Capelo), Relating to medical and health care information.

To Public Health.

HB 3012 (By Capelo), Relating to the prevention and detection of fraud.

To Public Health.

HB 3014 (By Capelo), Relating to the authorization of donations to state programs by pharmaceutical manufacturers or other private entities.

To Public Health.

HB 3016 (By Hochberg), Relating to the operation of the Texas Health Insurance Risk Pool.

To Insurance.

HB 3017 (By Solomons), Relating to the organization and administration of a coordinated county transportation authority.

To County Affairs.

HB 3018 (By Solomons), Relating to mechanic's contractor's or materialman's lien.

To Business and Industry.

HB 3019 (By Wise), Relating to regulation of certain lending and finance practices.

To Financial Institutions.

HB 3020 (By Woolley), Relating to the issuance of God Bless Texas and God Bless America special license plates.

To Transportation.

HB 3021 (By Woolley), Relating to the disclosure of business or financial relationships by directors of sports authorities; imposing a criminal penalty.

To Urban Affairs.

HB 3022 (By Taylor), Relating to availability of preferred providers.

To Insurance.

HB 3023 (By Taylor), Relating to improving access to health care for the citizens of Texas by providing for the reimbursement and use of particular health care practitioners who are licensed by the state to provide certain services.

To Insurance.

HB 3024 (By Casteel), Relating to increasing governmental efficiency through the reduction of duplicative reporting and auditing requirements.
To Government Reform.

HB 3025 (By Martinez Fischer), Relating to the payment of compensable costs required for removal of an on-premise sign in a municipality.
To Urban Affairs.

HB 3026 (By Martinez Fischer), Relating to contributions to, and benefits payable by, the Judicial Retirement System of Texas Plan One and the Judicial Retirement System of Texas Plan Two.
To Pensions and Investments.

HB 3027 (By Martinez Fischer), Relating to notice and appearance of attorneys representing governmental entities at a hearing for a temporary restraining order.
To Civil Practices.

HB 3028 (By J. Moreno), Relating to certain purchasing contracts of certain navigation districts and port authorities.
To Natural Resources.

HB 3029 (By Van Arsdale), Relating to appeals of adverse determinations made by health maintenance organizations.
To Insurance.

HB 3030 (By Van Arsdale), Relating to public notice of groundwater contamination.
To Natural Resources.

HB 3031 (By Van Arsdale), Relating to regulation of inland marine, fidelity, and personal liability coverage.
To Insurance.

HB 3032 (By Laney), Relating to purchasing preferences to Texas and United States products under certain state and local purchasing procedures.
To State Affairs.

HB 3033 (By Ellis), Relating to the appointment of a bailiff for the 75th District Court.
To Judicial Affairs.

HB 3034 (By Ellis), Relating to the rates of certain retail public utilities.
To Natural Resources.

HB 3035 (By R. Cook), Relating to the powers and duties of groundwater conservation districts.
To Natural Resources.

HB 3036 (By R. Cook), Relating to the privacy of site-specific groundwater information gathered on private property.
To Natural Resources.

HB 3037 (By R. Cook), Relating to energy aggregation by political subdivisions.

To Regulated Industries.

HB 3050 (By Hunter), Relating to excepting land of certain charitable organizations from the additional tax imposed on the change of use of land appraised for ad valorem tax purposes as open-space land.

To Local Government Ways and Means.

HB 3051 (By Hunter), Relating to the administration of certain types of service credit and annuity increases for members and retirees of the Texas Municipal Retirement System.

To Pensions and Investments.

HB 3052 (By Hunter), Relating to the prohibition of the use of certain colors on certain signs, signals, or markings.

To Transportation.

HB 3053 (By Hughes and Christian), Relating to delay in the deregulation of certain electric utilities.

To Regulated Industries.

HB 3054 (By Baxter), Relating to the cost of an attendance credit under the public school finance system.

To Public Education.

HB 3055 (By Deshotel), Relating to certain probate fees.

To Civil Practices.

HB 3056 (By Deshotel), Relating to the determination and clarification of certain dates, deadlines, and procedures under the Election Code.

To Elections.

HB 3057 (By Hunter), Relating to the voluntary regulation of persons providing certain ophthalmic goods and services.

To Public Health.

HB 3058 (By Allen), Relating to requiring state agencies to lease excess land for hunting, fishing, or agricultural purposes.

To Government Reform.

HB 3059 (By J. Jones), Relating to the administration and functions of the Texas Department on Aging and to the transfer of certain programs and activities to the Texas Department on Aging.

To Human Services.

HB 3060 (By Flores), Relating to the payment of certain wages by staff leasing services companies.

To Business and Industry.

HB 3061 (By Flores), Relating to regulation of the disposal of animal remains.

To Agriculture and Livestock.

HB 3062 (By Mabry), Relating to the confidentiality of information associated with family violence centers.

To Human Services.

HB 3063 (By F. Brown), Relating to the evaluation by the Texas Higher Education Coordinating Board of requests by institutions of higher education for special item appropriations.

To Higher Education.

HB 3064 (By F. Brown), Relating to tuition and other revenue charged or received by public institutions of higher education.

To Higher Education.

HB 3065 (By Deshotel), Relating to the composition of a jury in certain cases.

To State Affairs.

HB 3066 (By Bailey), Relating to energy purchased for charging an energy storage facility.

To Regulated Industries.

HB 3067 (By Bailey), Relating to fire control, prevention, and emergency medical services districts by certain municipalities.

To Urban Affairs.

HB 3068 (By Dutton), Relating to the powers and duties of peace officers concerning enforcement of compulsory school attendance requirements.

To Juvenile Justice and Family Issues.

HB 3069 (By Dutton), Relating to teacher personal leave.

To Public Education.

HB 3070 (By Casteel), Relating to the reimbursement of the expenses of jurors.

To Judicial Affairs.

HB 3071 (By Wohlgemuth), Relating to the terms of office for various executive branch boards and commissions.

To State Affairs.

HB 3072 (By Wohlgemuth), Relating to the determination of school district property values and the accountability of appraisal district operations.

To Ways and Means.

HB 3073 (By Lewis), Relating to collaboration between criminal justice agencies to ensure the success of supervision programs.

To Corrections.

HB 3075 (By West), Relating to local agreements to allow certain development corporations and taxing units to invest in and receive tax revenues from certain regional economic development projects.

To Local Government Ways and Means.

HB 3076 (By West), Relating to indemnification in certain construction contracts.

To Civil Practices.

HB 3077 (By West), Relating to the foreclosure of certain liens on property located in a residential subdivision.

To Land and Resource Management.

HB 3078 (By West), Relating to state agency action to identify and address disproportionately high and adverse human health or environmental effects on minority populations and low-income populations.

To Natural Resources.

HB 3079 (By West), Relating to the management of certain condominiums.

To Land and Resource Management.

HB 3080 (By West), Relating to the qualifications of a member of and meetings held by the board of directors of a nonprofit corporation.

To Business and Industry.

HB 3081 (By Casteel), Relating to facilities outside of a county seat.

To County Affairs.

HB 3082 (By Puente), Relating to the Texas Water Advisory Council.

To Natural Resources.

HB 3083 (By Puente), Relating to the procedure for approval of certain amendments to a water right.

To Natural Resources.

HB 3084 (By Puente), Relating to increasing the sustainability of the State's building infrastructure.

To Environmental Regulation.

HB 3085 (By Puente), Relating to the acquisition, financing, construction, operation, and maintenance of rail facilities by the Texas Department of Transportation; granting the authority to issue bonds.

To Transportation.

HB 3086 (By Hodge), Relating to the availability for public inspection of a final order in a parentage action.

To Juvenile Justice and Family Issues.

HB 3087 (By Hodge), Relating to the reduction of and release from certain child support arrearages.

To Juvenile Justice and Family Issues.

HB 3088 (By Dukes), Relating to excepting a benefits appeals committee for a public self-funded health plan from deliberating the medical or psychiatric records of an individual applicant for a benefit.

To Public Health.

HB 3089 (By Dukes), Relating to competitive purchasing procedures for certain counties.

To County Affairs.

HB 3090 (By Madden), Relating to administrative hearings held in matters regarding the regulation of motor vehicle inspection stations and inspectors
To Law Enforcement.

HB 3091 (By Madden), Relating to the requirement that a health care entity notify the Texas State Board of Medical Examiners regarding the privileges or membership of a physician.
To Public Health.

HB 3092 (By Madden), Relating to informing a consumer of the actual cost of a prescription drug or device.
To Public Health.

HB 3093 (By Madden), Relating to improving access to health care for the citizens of Texas by providing for the reimbursement and use of particular health care practitioners who are licensed by the state to provide certain services.
To Insurance.

HB 3094 (By Madden), Relating to availability of preferred providers.
To Insurance.

HB 3095 (By Madden), Relating to the requirement that a health care entity notify the Texas State Board of Medical Examiners regarding the privileges or membership of a physician.
To Public Health.

HB 3096 (By Madden), Relating to the penalty for the failure to timely file a report of political contributions and expenditures with the Texas Ethics Commission.
To Elections.

HB 3097 (By Madden), Relating to the enrollment and absence of students in what constitutes a school year in public primary and secondary schools.
To Public Education.

HB 3098 (By Madden), Relating to notice of renewal or nonrenewal of term contracts of certain professional employees of school districts.
To Public Education.

HB 3099 (By Madden), Relating to accounting and financial statement requirements regarding reinsurance agreements entered into by certain insurers.
To Insurance.

HB 3100 (By Madden), Relating to a loan secured by personal property with limited recourse against the borrower.
To Financial Institutions.

Pursuant to Rule 1, Section 4 of the House Rules, the chair corrects the referral of the following bills and resolutions:

HB 1859 (By Bohac and Bailey), Relating to the construction or operation of chemical dependency treatment facilities near certain residential and community properties.
To Urban Affairs.

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 20**HCR 152**

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

March 27

Business and Industry - **HB 1156, HB 1394**

Environmental Regulation - **HB 1365**

Human Services - **HB 111, HB 585, HB 1322, HB 1492**

Land and Resource Management - **HB 1454, HB 2130**

Pensions and Investments - **HB 1984, HB 2042, HB 2169**

ENROLLED

March 27 - HCR 80, HCR 148, HCR 152

SENT TO THE GOVERNOR

March 27 - HCR 80, HCR 148